

**ZONING BOARD OF APPEALS**

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RICHARD L. SEEDEL, CHAIRMAN
CYNTHIA S. HIBBARD
DAVID G. SHEFFIELDLENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208
Web: www.wellesleyma.govJ. RANDOLPH BECKER, VICE CHAIRMAN
ROBERT W. LEVY
DAVID L. GRISSINOZBA 2012-01
Petition of Dunkin Donuts
978 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 5, 2012 at 7:30 p.m. Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of DUNKIN DONUTS requesting renewal of a Special Permit pursuant to the provisions of Section XII and Section XXV of the Zoning Bylaw to allow a portion of the premises at 978 WORCESTER STREET, to be used for a drive-through window where business is transacted from the vehicles of customers or patrons, which is a use not allowed by right in a Business A district.

Record Owner of Property: Wellesley Realty Associates LLC

On December 19, 2011, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Bill Donovan, Donovan Services, representing Dunkin Donuts (the "Petitioner") and Joseph Murray, Director of Operations, Donovan Services. Mr. Donovan said that they were requesting a two-year renewal for the drive-through window.

The Board said that it had recently seen a Site Plan with a revised traffic pattern on the site. The Board confirmed that those plans have not been acted on yet. The Board said that the revised Site Plan did not affect the queue. The Board said that it adjusted the width of the lane separator to allow for parking along the side lot line. The Board said that was the only area that would have affected Dunkin Donuts. The Board said that it would not affect the traffic pattern for Dunkin Donuts.

Mr. Donovan said that the Special Permit had been granted for two years. He said that the Developer had told Dunkin Donuts that they would be in the building within 60 days but they were not in the building until a year later. He said that effectively, they were only in operation for one year of the Special Permit. He asked if there was any policy for extending the Special Permit so that they would get the benefit of a two-year permit.

The Board asked if there have been any issues with the queue. The Board said that it is concerned that once the site is fully occupied, there may be issues.

The Board questioned who would be responsible for the Post-Development Traffic Analysis that was required under Condition #2 of the current Special Permit. The Board said that it had not received that report yet. The Board said that the original application was from the Developer. The Board said that the

Developer was bound by the Site Plan Approval. Mr. Donovan said that the PSI condition referenced 50% tenancy. He said that currently he is the only tenant in the commercial building. The Board confirmed that Dunkin Donuts is currently the only tenant on the site.

The Board said that the second condition was really imposed on the Developer. The Board said that condition relates to the site not to the drive-through Special Permit. Mr. Donovan said that the notice of application for the permit and the notice for renewal of the permit were sent to the Developer, which were subsequently forwarded to him.

The Board said that once this project gets fully built out with the residential units, the site will potentially be crowded. The Board said that the issues will concern traffic and circulation and not necessarily relate to the drive-through window. The Board said that queuing at the drive-through could be affected. The Board said that it was discussed at the Site Plan Approval Hearing that the employees would park at the back of the commercial building because the queuing might block those parking spaces. Mr. Donovan said that is where the employees park now.

The Board asked how many cars are typically in the queue during peak hours. Mr. Donovan said that there are probably a dozen cars.

Mr. Donovan said that the Eastbound Dunkin Donuts is operating at approximately 50%. He said that they are having trouble with signage. Mr. Murray said that it is a small sign that is blocked by Mrs. Kehoe's sign. Mr. Donovan said that business is starting to come around slowly after 15 months. He said that the Eastbound store was not affecting the Westbound store's business all that much.

The Board said that the intent of the Planning Board was that the traffic analysis need not be done until the site is fully developed. The Board said that it may be more useful to do the traffic analysis six months after the Certificate of Occupancy is issued so that there is some historical data to look at. Mr. Murray clarified that the Developer was responsible for providing the traffic analysis that was required under Condition #2.

The Board said that the original application and permit were under Wellesley Realty Associates. The Board said that this petition is under Dunkin Donuts. Mr. Donovan asked if the Board could separate the drive-through permit from the Developer's permit. The Board said that Condition #2 is linked because the drive-through affects traffic circulation. The Board said that after the Developer submits the Post-Development Traffic Analysis, that would be the appropriate time to separate the permits.

The Board said that this would be a new permit because it is a new applicant.

The Board said that the existing Site Plan Approval stands on its own unless the Developer wants to modify or extend it. The Board said that it will hear about changes in the traffic when it reviews the site development if the traffic patterns are changed. The Board said that the drive-through window will have to be taken into account at that time.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 978 Worcester Street, in a Business A District.

The Petitioner is requesting a Special Permit to allow it to use a portion of its premises to be used for a drive-through window where business is transacted from the vehicles of customers or patrons, which is a use not allowed by right in a Business A district.

On January 4, 2012, the Planning Department Staff reviewed the petition and recommended that the Special Permit be granted with conditions.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. A Special Permit is required pursuant to Section XII of the Zoning Bylaw, as the requested use of the premises for a drive-through facility is not a use allowed by right in a Business A District.

It is the opinion of this Authority that the use of a portion of the premises at 978 Worcester Street to be used for a drive-through facility where business is transacted from the vehicles of customers or patrons is in harmony with the general intent and purpose of the Zoning Bylaw.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, to allow a portion of its premises to be used for a drive-through window where business is transacted from the vehicles of customers or patrons, subject to the following conditions:

1. This Special Permit shall expire on the earlier of three years from the date time-stamped on this decision or the date of full occupancy of the site.
2. The hours of operation shall be from 5:00 a.m. to 9:00 p.m.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings
lrm

J. Randolph Becker, Acting Chairman

Robert W. Levy

David L. Grissino